

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

GEORGE P. STEPHENSON,

Plaintiff,

v.

Case No.: _____

UNITED STATES OF AMERICA,

Defendant.

**SERVE: ACTING UNITED STATES ATTORNEY RAJ PAREKH
UNITED STATES ATTORNEY'S OFFICE
EASTERN DISTRICT OF VIRGINIA
101 WEST MAIN STREET, SUITE 8000
NORFOLK, VA 23510-1671**

COMPLAINT

COMES NOW the Plaintiff, George P. Stephenson, by counsel, and moves this Court to enter judgment against the Defendant on the grounds and in the amount stated below.

In support of his Complaint, the Plaintiff states as follows:

Preliminary Statement

1. This is an action seeking damages for personal injury under 28 U.S.C. § 2671 et seq (the “Federal Tort Claims Act”).

Parties

2. The Plaintiff is a natural person and a citizen of the United States currently residing in the County of York, Virginia.

3. The Defendant is the United States of America.

Jurisdiction and Venue

4. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1346(b).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2) and 1402(b).

6. The Plaintiff has duly presented to the Defendant, the United States of America (“USA”), an Administrative Claim for Injuries Sustained pursuant to 28 U.S.C. § 2675 (a “Standard Form 95”) which was received by Crystal A. Bowe, Tort Claim Assistant, Department of the Navy, Office of the Judge Advocate General, Tort Claims Unit Norfolk, on or about September 3, 2020. A true and complete copy of the Standard Form 95 is attached hereto as Exhibit “A.”

7. The USA has failed to make a final disposition of the claim within six months of its filing and the claim is therefore deemed denied in accordance with 28 U.S.C. § 2675(a).

Statement of Facts

8. On or about October 8, 2019, the Plaintiff was operating a motor vehicle traveling north on Jefferson Avenue in the City of Newport News, Virginia. At the intersection of Jefferson Avenue and Longfellow Road, the Plaintiff’s lane of travel was governed and controlled by a traffic light, which was displaying a solid green light.

9. At the same time, Shawn Michael Moody, a United States Marine, was operating a motor vehicle, owned by, and registered to, the United States Marine Corps, south on Jefferson Avenue, and attempting to turn left onto Longfellow Road into Naval Weapons Station Yorktown in the City of Newport News, Virginia. At the intersection of Jefferson Avenue and Longfellow Road, Shawn Michael Moody’s lane of travel was governed and controlled by a traffic light, which was a solid green light, thus requiring him to yield right of way to oncoming vehicles traveling north on Jefferson Avenue before making a left turn onto Longfellow Road.

10. At all times relative to this Complaint, Shawn Michael Moody was acting within the scope of his enlistment as a United States Marine and a member of the United States Marine Corps, and as an agent of the USA.

11. At all times relative to this Complaint, Shawn Michael Moody was acting within the scope of his employment and agency as an employee and agent of the United States Marine Corps and an employee and agent of the USA.

12. Therefore, at all times relative to this Complaint, the USA was vicariously liable and responsible for the negligent acts and omissions of Shawn Michael Moody.

Cause of Action- Negligence

13. Shawn Michael Moody had a duty to operate his motor vehicle with reasonable care and with due regard to others using the road.

14. Notwithstanding these duties, Shawn Michael Moody carelessly, recklessly, and negligently operated his motor vehicle in that he turned left on a solid green traffic light, as opposed to a green left turn arrow, directly into the path of the Plaintiff's on-coming vehicle, resulting in a collision of the vehicles.

15. Shawn Michael Moody was negligent in that:

a. He failed to maintain a proper lookout, by believing that he had the right of way to make a left turn onto Longfellow Road when faced with a solid green traffic signal, as opposed to a green left turn arrow;

b. He failed to obey the traffic light that governed and controlled his lane of travel;

c. He failed to maintain a proper lookout and observe the Plaintiff's vehicle approaching the intersection;

d. He failed to yield right of way to the Plaintiff's oncoming vehicle; and

e. He failed to maintain the safe and proper control of the vehicle he was operating.

16. Shawn Michael Moody's negligence proximately caused the Plaintiff to suffer severe personal injuries adversely affecting the Plaintiff's health and well-being.

17. The Plaintiff's personal injuries prevented the Plaintiff from earning money, pension rights, and work benefits that the Plaintiff would have otherwise earned.

18. The Plaintiff's personal injuries made it necessary for the Plaintiff to seek and obtain medical treatment and assistance, and to expend large sums of money for such treatment and assistance.

19. The Plaintiff's personal injuries were disabling, painful and progressive in nature and caused the Plaintiff to suffer physical pain, nervousness, sleeplessness, mental anguish, emotional disturbance, limitation in activities, and limitation in the pursuit of the Plaintiff's normal and usual activities without hindrance.

WHEREFORE, the Plaintiff, George P. Stephenson, moves this Honorable Court to enter judgment against the Defendant, the United States of America, in the amount of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) with interest from the date of judgment in accordance with 31 U.S.C. § 1304, plus the cost of this proceeding and attorney's fees in accordance with 28 U.S.C. § 2678.

Respectfully submitted,

GEORGE P. STEPHENSON

/S/ W. Hunter Old

Leonard C. Heath, Jr., Esq. (VSB No. 26709)

W. Hunter Old, Esq. (VSB #43076)

HEATH, OLD & VERSER, LC

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